

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

LANNY WADE BUEHL,

Plaintiffs,

v.

TIM FOX; ATTORNEY GENERAL
OF THE STATE OF MONTANA,

Defendants.

CV-18-152-H-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS**

Plaintiff Buehl, a state prisoner proceeding in forma pauperis, filed his petition on December 20, 2018. (Doc. 1). Buehl alleges that his right to due process was violated during his state revocation proceeding. *Id.* at 4. Buehl asserts he was unable to confront his supervising parole officer at his revocation hearing regarding an allegation in the officer’s report. *Id.* Buehl asked the Court for an immediate release to parole. *Id.* at 7.

Judge Johnston entered Findings and Recommendations on January 9, 2019, recommending that Buehl's petition should be denied. (Doc. 4 at 4). Judge Johnston determined that Buehl had not established a substantial and injurious effect from the alleged constitutional violation. *Id.* Judge Johnston notes that the undisputed facts show that Buehl admitted to several violations of his supervised release during the preliminary hearing, including ingesting methamphetamine, drinking alcohol, and smoking marijuana. *Id.* at 8. These admissions provide an adequate basis for probable cause even without considering the reporting allegation. *Id.*

No party filed objections to Judge Johnston's Findings and Recommendations. The Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations and adopts them in full.

ORDER

Accordingly, **IT IS ORDERED** that Magistrate Judge Johnston's Findings and Recommendations (Doc. 4) are **ADOPTED IN FULL**.

IT IS ORDERED that Buehl's Petition (Doc. 1) is **DENIED**.

The Clerk of the Court is directed to enter, by separate document, a judgement in favor of Respondents.

The Court **CERTIFIES**, pursuant to Federal Rule of Appellate Procedure 24(a)(4)(B), that any appeal from this disposition is not to be taken in good faith.

DATED this 13th day of February, 2019.

A handwritten signature in blue ink, reading "Brian Morris". The signature is fluid and cursive, with the first name "Brian" and last name "Morris" clearly distinguishable. It is positioned above a horizontal line.

Brian Morris
United States District Court Judge

